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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,182	07/28/2003	Beryl B. Schiltz	MOR-001	4482

7590 06/28/2004  
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EXAMINER

CINTINS, IVARS C

ART UNIT PAPER NUMBER

1724

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/628,182

Applicant(s)

SCHILTZ, BERYL B.

Examiner

Ivars C. Cintins

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1724

eb

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 4-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5, drawn to a liquid purification device, classified in class 210, subclass 266.
- II. Claims 6-10, drawn to a method for purifying water, classified in class 210, subclass 668.

The inventions are distinct, each from the other because:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Group I could be used in another process, different from that of Group II. For example, this device could be used to purify liquids other than water (e.g. fruit juice, beer, wine, milk, etc.). Alternatively, this device could be used by pumping impure water through the purification elements and then to a storage container, instead of allowing a user to drink purified water directly from this device.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and divergent subject matter, and because the searches for the individual Groups are not coextensive, restriction for examination purposes as indicated is proper.

In addition to the above noted restriction requirement, an election of species is also required.

This application contains claims directed to the following patentably distinct input/output species of the claimed invention:

- (1) canteen insert adapter of Fig. 1;
- (2) flute straw of Fig. 2; and
- (3) water line insert sections of Fig. 3.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed input/output species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 6 are generic.

Applicant's preliminary amendment filed July 28, 2003 states that if the same restriction requirement that was imposed in the parent application is imposed in this CIP application, then Applicant elects the same group of claims that was elected in the parent application, specifically claims 1-3. Accordingly, Applicant is deemed to have elected:

- (a) Group I, claims 1-5; and
- (b) canteen insert adapter as the input/output species.

Furthermore, since Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 6-10 are withdrawn from further consideration, as being directed to a non-elected invention; and claims 4 and 5 are withdrawn from further consideration, as being directed to non-elected species.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. It appears that the iodinated media in the inlet section must be located "inside the secondary filter" (see page 3, line 18 of the specification). Also, the presence of a "separator" between the inlet section and the multi-stage apparatus (see page 3, lines 21-22), and the presence of a "mesh separator" (e.g. polyester, cotton, etc.) between each water purification section of the multi-stage apparatus (see page 5, lines 8-10, of the specification), appear to be critical and essential to the practice of the invention. Since these features have not been recited in claims 1-3, these claims are not enabled by the disclosure. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1-3 fail to recite the apparently essential limitations that the iodinated media in the inlet section is located inside the secondary filter, that a separator is located between the inlet section and the multi-stage apparatus, and that a mesh separator is located between each water purification section of the multi-stage apparatus; and therefore, these claims fail to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1-3 would be allowed if rewritten or amended to overcome the above rejection under 35 U.S.C. § 112 because the references of record do not teach or fairly suggest a water purification device having an inlet section with primary and secondary filters of the type recited,

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as well as iodinated and scavenger media of the type recited; in combination with a multi-stage purifying apparatus having a first section containing second iodinated media, a second section containing second scavenger media, a third section containing granular activated charcoal, and a fourth section containing hepatrophic media. Also, upon the allowance of generic claim 1, currently withdrawn species claims 4 and 5 will be considered. Furthermore, Applicant should cancel non-elected method claims 6-10.

Pall (U.S. Patent No. 3,327,859), Gartner (U.S. Patent No. 4,298,475), Deutsch et al. (U.S. Patent No. 4,769,143), Vermes et al. (U.S. Patent No. 4,995,976) and Sullivan (U.S. Patent No. 5,456,831) disclose similar multi-stage water purification devices. Dick (U.S. Patent No. 2,389,185), Knight (U.S. Patent No. 3,335,917), Malson et al. (U.S. Patent No. 4,714,550), Iana et al. (U.S. Patent No. 5,167,819) and Cowan et al. (U.S. Patent No. 5,415,774) disclose water purifiers in combination with canteens. Lambert et al. (U.S. Patent No. 5,415,774) discloses disinfecting water with a resin containing triiodide ( $I_3^-$ ).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (571) 272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at (571) 272-1166.

The centralized facsimile number for the USPTO is (703) 872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**Ivars C. Cintins**  
**Primary Examiner**  
**Art Unit 1724**

I. Cintins  
June 24, 2004